

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING)
PHARMACY, INC. PRODUCTS LIABILITY)
LITIGATION)
_____)

MDL No. 2419
Dkt. No 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:)

Suits Naming the Tennessee Clinic)
Defendants)
_____)

**ASSENTED TO MOTION FOR ENTRY OF
AGREED ORDER EXTENDING CURRENT DEADLINES**

Defendants Saint Thomas Outpatient Neurosurgical Center, LLC; Howell Allen Clinic, a Professional Corporation; John Culclasure, MD; Debra Schamberg, RN, CNOR; Vaughan Allen, MD; Specialty Surgery Center, Crossville, PLLC; Kenneth R. Lister, MD; Kenneth Lister, MD, PC; and Donald E. Jones, MD (collectively “Tennessee Clinic Defendants”), with the assent of the Plaintiffs’ Steering Committee (“PSC”), move the Court for entry of the agreed order attached as Exhibit 1:

On July 9, 2015, the Court entered the Order setting the deadlines currently applicable to the Tennessee cases.^{1 2} The Order set deadlines for, among other things, completion of common fact discovery (September 15), disclosure of common experts (October 16, November 13, November 24), and completion of common expert discovery (December 11). The parties have worked diligently to complete discovery pursuant the Order.

¹ Dkt. 2075.

² Tennessee cases are those involving the Saint Thomas Entities or the Tennessee Clinic Defendants.

The Defendants in the Tennessee cases set, or were in the process of setting, depositions of several former NECC employees, two former Medical Sales Management employees, and the Massachusetts Board of Registration in Pharmacy.³ On September 4, 2015, the United States filed a motion for leave to intervene and for a stay of these depositions.⁴

On September 9, 2015, Magistrate Boal set the United States' motion for hearing on October 14, 2015, after the expiration of the common issue fact discovery deadline and after the depositions at issue were set to occur.⁵

At the September 10, 2015 status conference, counsel for the Tennessee Clinic Defendants sought guidance from the Court regarding whether to proceed with the depositions given (1) the pendency of the United States' motion and (2) the common issue fact discovery deadline. The Court (1) instructed the parties to work with the United States to attempt to reach an agreement regarding the depositions that are the subject of the United States' motion and (2) instructed the Tennessee Clinic Defendants to file a pleading with the Court requesting a decision on this issue.

After the hearing, the Tennessee Clinic Defendants reached out to the PSC to discuss these issues. The Tennessee Clinic Defendants and the PSC have agreed to extend the current deadlines in the Tennessee cases by 30 days to permit the parties time to work towards an agreement on the United States' motion.

Accordingly, the Tennessee Clinic Defendants, with the assent of the PSC, respectfully request that the Court enter the proposed agreed order attached as Exhibit 1, extending the deadlines applicable to the Tennessee cases by 30 days.

³ *E.g.*, Dkts. 2184, 2203, 2244.

⁴ Dkt. 2209.

⁵ Dkt. 2237.

Respectfully submitted,

GIDEON, COOPER & ESSARY, PLC

/s/ Chris J. Tardio

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* Admitted pursuant to MDL Order No. 1.

** Admitted *pro hac vice*.

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be served electronically to the registered participants identified on the Notice of Electronic Filing and copies will be e-mailed or mailed via regular U.S. mail to those participants identified as unregistered this 15th day of September, 2015.

/s/ Chris J. Tardio

Chris J. Tardio